

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2930

Introduced by Assembly Member Laird

February 24, 2006

An act to amend ~~Sections 31402.1 and~~ *Section* 11005 of the Government Code, and to amend ~~Section 31402.2~~ *Sections 31402.1, 31402.2, and 31402.3* of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2930, as amended, Laird. Coastal resources: property dedications: conservation and open-space easements.

Existing law requires that, unless the Legislature specifically provides that approval is not required, every gift or dedication to the state of personal property, or every gift to the state of real property in fee or in a lesser estate or interest, be approved by the Director of Finance, and every contract for the acquisition or hiring of real property in fee or in a lesser estate or interest, entered into by or on behalf of the state, be approved by the Director of General Services. However, existing law exempts from those requirements, among other things, the acceptance by the State Coastal Conservancy of offers to dedicate public accessways made pursuant to specified provisions of the California Coastal Act of 1976.

This bill would additionally exempt from those requirements the acceptance by the conservancy of a conservation easement or an open-space easement made pursuant to the act.

Existing law requires that the conservancy accept an outstanding offer to dedicate a public accessway, as described, that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date.

This bill would also require the conservancy to accept an offer to dedicate a conservation easement, or an open-space easement that has not been accepted by another public agency or nonprofit organization within 90 days of the expiration date of the outstanding offer, *as specified*.

~~The bill would provide that a condition that is imposed on a permit issued pursuant to the act that requires the dedication of or the offer to dedicate a conservation easement or open-space easement shall require that the dedication document contain a provision that, to the satisfaction of the office of the Attorney General, indemnifies the state against claims of liability if the state becomes the holder of the easement.~~ *the conservancy shall accept a dedication of, or offer to dedicate, a conservation easement or an open-space easement, unless the dedication document contains a provision that indemnifies the state or subsequent holder of the easement against claims of liability.*

The bill would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11005 of the Government Code is
2 amended to read:
3 11005. (a) Unless the Legislature specifically provides that
4 approval is not required, every gift or dedication to the state of
5 personal property, or every gift to the state of real property in fee
6 or in a lesser estate or interest, shall be approved by the Director
7 of Finance, and every contract for the acquisition or hiring of real
8 property in fee or in a lesser estate or interest, entered into by or
9 on behalf of the state, shall be approved by the Director of
10 General Services. A contract entered into in violation of this
11 section is void. This section applies to a state agency that, by

1 general or specific statute, is expressly or impliedly authorized to
2 enter into transactions referred to in this section.

3 (b) This section does not apply to the following:

4 (1) An unconditional gift of money.

5 (2) The acquisition or hiring by the Department of
6 Transportation of real property in fee or in any lesser estate or
7 interest for highway purposes, but does apply to the hiring by
8 that department of office space in any office building.

9 (3) A contract entered into under the authority of Chapter 4
10 (commencing with Section 11770) of Part 3 of Division 2 of the
11 Insurance Code.

12 (4) The receipt of donated, unencumbered personal property
13 from private sources received in conjunction with the
14 administration of the Federal Surplus Personal Property Program
15 by the Department of General Services.

16 (5) The receipt of gifts of personal property in the form of
17 interpretive or historical objects, each valued at fifteen thousand
18 dollars (\$15,000) or less, by the Department of Parks and
19 Recreation.

20 (6) The acceptance by the State Coastal Conservancy of an
21 offer to dedicate a public accessway, conservation easement, or
22 open-space easement made pursuant to Division 20 (commencing
23 with Section 30000) of the Public Resources Code.

24 SEC. 2. Section 31402.1 of the Public Resources Code is
25 amended to read:

26 31402.1. (a) It is the intent of the Legislature to provide for
27 timely acceptance of offers to dedicate interests in property,
28 recorded pursuant to Division 20 (commencing with Section
29 30000) and needed to preserve open space or conservation areas
30 or to provide public access to and along the ocean shoreline.

31 (b) The Legislature finds and declares all of the following:

32 (1) In order to prevent the potential loss of open space,
33 conservation areas, or public accessways to and along the state's
34 coastline, it is in the best interest of the state to accept all offers
35 to dedicate real property that protect open space or conservation
36 areas or have the potential to provide access to public tidelands,
37 including any beach, shoreline, or view area, or that provide a
38 connection to other easements or public properties providing this
39 access.

(2) Offers to dedicate interests in property that are required and recorded pursuant to Division 20 (commencing with Section 30000) provide mitigation necessary for approved development to occur consistent with the policies and objectives of that division and are not gifts to the state or acquisitions of property interests within the meaning of Section 31105.

SEC. 3. Section 31402.2 of the Public Resources Code is amended to read:

31402.2. (a) The conservancy shall accept an offer to dedicate a conservation easement, *an* open-space easement, or *a* public accessway; described in Section 31402.1, that has not been accepted by another public agency or nonprofit organization within 90 days of the expiration date of the outstanding offer, *if the commission has provided notice and a copy of the offer to the conservancy at least 120 days prior to its expiration date.*

~~(b) A condition that is imposed on a permit issued pursuant to Division 20 (commencing with Section 30000) that requires the dedication of or the offer to dedicate a conservation easement or open-space easement shall require that the dedication document contain a provision that, to the satisfaction of the office of the Attorney General, indemnifies the state against claims of liability if the state becomes the holder of the easement.~~

(b) The conservancy shall not accept a dedication of, or offer to dedicate, a conservation easement or an open-space easement pursuant to Division 20 (commencing with Section 30000) unless the dedication document contains a provision that indemnifies the state or subsequent holder of the easement against claims of liability.

SEC. 4. Section 31402.3 of the Public Resources Code is amended to read:

31402.3. (a) To the extent that funds are available in the Coastal Access Account in the State Coastal Conservancy Fund, the conservancy shall open at least three public accessways each year either directly or by awarding grants to public agencies or nonprofit organizations.

~~(b) The conservancy may transfer public access easements or other less-than-fee interests in property~~ *a conservation easement, an open-space easement, or a public accessway* to an appropriate public agency or nonprofit organization for development, management, or public use, or may enter into agreements with

1 public agencies and nonprofit organizations for the development,
2 management, or public use of the *easement or* accessway.
3 Transfer under this section is not subject to approval by the
4 Department of General Services pursuant to Section 11005.2 of
5 the Government Code. The conservancy shall retain the right to
6 reclaim the easements or other interests in the event that the
7 public agency or nonprofit organization ceases to exist, is no
8 longer able to manage the *easement or* accessway, or violates the
9 terms of the agreement.

10 (c) Before a nonprofit organization may accept an offer to
11 dedicate an interest in real property under Division 20
12 (commencing with Section 30000), the nonprofit organization
13 shall do all of the following:

14 (1) Submit satisfactory proof to the executive director of the
15 commission that the nonprofit organization has been approved as
16 a tax exempt public benefit corporation under Section 501(c)(3)
17 of the Internal Revenue Code, and has filed a Form 990 with the
18 Internal Revenue Service.

19 (2) Submit a management plan to the executive director of the
20 commission and the executive officer of the conservancy that
21 describes the nonprofit organization's planned management and
22 operation of the interest.

23 (3) Grant a right of entry that permits the conservancy to
24 reclaim or assign the interest to another public agency or
25 nonprofit organization, if the conservancy and the commission
26 determine that the nonprofit organization is not managing or
27 operating the interest consistent with the management plan
28 developed pursuant to paragraph (2).

29 (d) A public accessway accepted pursuant to Section 31402.2
30 may not be developed, improved, or formally opened for public
31 use until its transfer, development, or public use has been
32 authorized by the conservancy.

33 (e) The conservancy may not use moneys appropriated from
34 the General Fund for the purposes of this section.